REGULATION (EEC) No 2401/74 OF THE COMMISSION

of 20 September 1974

opening an invitation to tender for the mobilization of common wheat flour as aid for the Republic of Sri Lanka

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to Council Regulation No 120/67/EEC [1] of 13 June 1967 on the common organization of the market in cereals, as last amended by Regulation (EEC) No 1996/74 [2];

Having regard to Council Regulation (EEC) No 1693/72 [3] of 3 August 1972 establishing the criteria for the mobilization of cereals to be used as food aid, and in particular Article 6 thereof;

Having regard to Council Regulation (EEC) No 974/71 [4] of 12 May 1971 covering certain measures of conjunctural policy to be taken in the agricultural sector following the temporary widening of the margins of fluctuation in the currencies of certain Member States, as last amended by Regulation (EEC) No 3450/73 [5], and in particular Article 6 (1) thereof;

Whereas on 21 March 1974, the Council of the European Communities declared that by way of Community action it proposed to grant to the Republic of Sri Lanka the equivalent of 16 000 metric tons of common wheat, in the form of flour, i.e. 10 596 metric tons of common wheat flour, under its 1973/74 food aid programme;

Whereas pursuant to Article 3 (3) of Council Regulation (EEC) No 1693/72 the goods may be purchased anywhere on the Community market;

Whereas tenders should be invited for the supply of the product to the port of shipment in the vicinity of the vessel, the goods to be set down at the place nominated by the recipient or its agent;

Whereas the contract should be awarded to the tenderer who makes the best offer;

Whereas it must be made clear who is to bear any costs which arise in the event that for reasons of *force majeure* the operation in question is not completed within the time stipulated;

Whereas provision should be made for security to be given to guarantee fulfilment of obligations arising by virtue of particpation in the invitation to tender for the supply of goods to the Republic of Sri Lanka;

Whereas the Dutch intervention agency should be made responsible for organizing the invitation to tender;

Whereas it is important that the Commission be informed without delay of the tenders submitted in response to the invitation and of those accepted by the intervention agency;

Whereas the prices of common wheat flour on the world market exceed at this time to a marked extent the prices ruling in the Community for that product; whereas on the bais of data currently available no immediate change in this position is to be foreseen; whereas under these conditions tenderers can reasonably expect that at the time of delivery of the products in the tender no monetary compensatory amount will be applied to the export by virtue of Article 4a (2) of Regulation (EEC) No 974/71; whereas however the Commission has proposed to the Council the suppression of Article 4a (2) aforesaid; whereas this measure will have the effect of applying under all circumstances the monetary compensatory amount for transactions with Member States with depreciated currencies and in particular the levying of this amount on exports; whereas in order not to hinder the execution of this present food aid it is expedient to provide that any compensatory amount that might be applied following the suppression of Article 4a (2) aforesaid shall not be levied for the products to be delivered by virtue of this present invitation to tender;

Whereas the measures provided for in this Regulation are in accordance with the Opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

1. An invitation to tender shall be issued in respect of the supply of 10 596 metric tons of common wheat flour to the Republic of Sri Lanka by way of Community food aid action.

(1) OJ No 117, 19. 6. 1967, p. 2269/67.
(2) OJ No L 209, 31. 7. 1974, p. 1.
(3) OJ No L 178, 5. 8. 1972, p. 3.
(4) OJ No L 106, 12. 5. 1971, p. 1.
(5) OJ No L 353, 22. 12. 1973, p. 25.

2. The tendering procedure shall take place in the Kingdom of the Netherlands and shall be in respect of a single lot.

3. The goods shall be mobilized on the Community market.

4. Shipment shall be from a Community port.

5. The product referred to in paragraph 1 is to be delivered in new cotton sacks of a net capacity of 50 kilogrammes to the port of shipment in the vicinity of the vessel. The goods must be set down at the place nominated by the recipient country or its agent, the timing of delivery being settled by the tenderer and the recipient country's agent.

6. The following shall be printed on the sacks :

'Wheat flour — gift of the European Community'.

Article 2

1. The award of the contract shall take place on 4 October 1974.

2. The closing date for submission of tenders shall be 4 October 1974 at 12 noon.

3. The notice of invitation to tender shall be published in the *Official Journal of the European Communities* not less than nine days before the closing date for submission of tenders.

Article 3

The contract shall be awarded to the tenderer who makes the most favourable offer.

However, if the tenders submitted do not appear to reflect normal market prices and costs, the intervention agency may cancel the invitation to tender.

Article 4

If the tenderer is unable to deliver the goods in compliance with Article 1 (5) on the date given in the notice of invitation to tender as a result of the late availability of the vessels to be used for sea transportation, the resulting costs shall be borne by the intervention agency.

Article 5

1. The successful tenderer shall give security in an amount of 10 units of account per metric ton of goods ; the purpose of such security is to guarantee performance of the operations specified in Articles 1 and 6. The security shall be forfeit if those operations are not carried out within the time stipulated, save as regards quantities not delivered for reasons of *force majeure.*

2. The security referred to in paragraph 1 may be given in the form of a cash deposit or of a guarantee issued by credit institution which satisfies the criteria laid down by each Member State.

Article 6

1. The goods referred to in Article 1 which are to be supplied to the Republic of Sri Lanka must meet the following requirements :

Common wheat flour :

— moisture content : 15 % maximum ;
— acidity : 4 ml NaOH/n maximum 100 g (calculated on the dry matter) ;
— ash content : 0·52 % maximum on the dry matter.

If the goods referred to in Article 1 do not meet the foregoing requirements they shall be rejected and the successful tenderer shall be owner thereof.

2. Tenders for supply to the Republic of Sri Lanka of the goods referred to in Article 1 must relate to products with the following characteristics :

Common wheat flour :

— moisture content : 15 % maximum ;
— acidity : 4 ml NaOH/n maximum per 100 g (calculated on the dry matter) ;
— ash content : 0·52 % maximum on the dry matter.

Article 7

1. The intervention agency of the Kingdom of the Netherlands shall be responsible for organizing the invitation to tender provided for by this Regulation.

2. It shall forthwith communicate to the Commission the list of firms which have responded to the invitation to tender, specifying the terms of each tender, together with the name and business name of the successful tenderer.

3. On the other hand, if the successful tenderer is established in a Member State other than the one collecting the tenders, and if the product is dispatched through a frontier post of the Member State where the successful tenderer is established, the intervention agency of the latter Member State shall be responsible for the operations relating to the tendering.

In this case, the intervention agency choosing the successful tenderer shall immediately inform the intervention agency of the Member State concerned and shall supply it with all the information which it may require.

4. The intervention agency shall request the successful tenderer to supply the following information :

(a) after each shipment a certificate showing the quantities dispatched and the quality of the products ;

(b) the date of departure of the vessels.

The information indicated above shall be forwarded by the intervention agency to the Commission immediately upon receipt.

Article 8

On delivery of the goods at the port of shipment, a handing-over certificate shall be supplied to the successful tenderer, acting as agent for the Community, by the agent of the recipient country or, in the absence of the latter, by the intervention agency of the Member State in whose territory the port of shipment is situated.

Article 9

The monetary compensatory amount shall not be levied for the products to be delivered under this Regulation.

Article 10

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 September 1974.

For the Commission

The President

François-Xavier ORTOLI